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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,909	09/26/2001	Anke Klippel	TRUC-0006/95-103-3	3406
23377	7590	10/12/2006	EXAMINER	
WOODCOCK WASHBURN LLP ONE LIBERTY PLACE, 46TH FLOOR 1650 MARKET STREET PHILADELPHIA, PA 19103			PROUTY, REBECCA E	
			ART UNIT	PAPER NUMBER
			1652	

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 25-28, drawn to drawn to methods of identifying a PI3K substrate, classified in Class 435, subclass 15.
- II. Claims 29-32, drawn to drawn to methods of identifying proteins which bind PI3K, classified in Class 435, subclass 7.8.
- III. Claims 33 and 34, drawn to drawn to methods of identifying inhibitors of PI3K, classified in Class 435, subclass 15.
- IV. Claims 35 and 36, drawn to methods of treating a disease with an inhibitor of PI3K, classified in class 514, subclass 789.
- V. Claim 37, drawn to method of promoting wound healing using a PI3K, classified in Class 424, subclass 94.5.
- VI. Claim 38, drawn to an inhibitor of PI3K, classification unknown as no structural features of the inhibitor are provided.

The inventions are distinct, each from the other because of the following reasons:

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The inhibitor of Group VI is unrelated to the methods of Groups I, II and V as it is neither used nor made by the methods of these groups.

Inventions VI and III or IV are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. § 806.05(h)). In the instant case the inhibitors can be used in methods of purifying the protein.

The methods of Groups I-V are independent as they are unrelated in design, operation or effect.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

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The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claim will be rejoined in accordance with the provisions of MPEP § 821.04. **Process claims that depend from or otherwise include all the limitations of the patentable product will be entered as a matter of right if the amendment is presented prior to final**

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rejection or allowance, whichever is earlier. Amendments submitted after final rejection are governed by 37 CFR 1.116; amendments submitted after allowance are governed by 37 CFR 1.312.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103, and 112. Until an elected product claim is found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowed product claim will not be rejoined. See "Guidance on Treatment of Product and Process Claims in light of *In re Ochiai*, *In re Brouwer* and 35 U.S.C. § 103(b)," 1184 O.G. 86 (March 26, 1996). Additionally, in order to retain the right to rejoinder in accordance with the above policy, Applicant is advised that the process claims should be amended during prosecution either to maintain dependency on the product claims or to otherwise include the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.**

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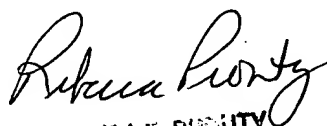
Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rebecca E. Prouty whose telephone number is 571-272-0937. The examiner can normally be reached on Tuesday-Friday from 8 AM to 5 PM. The examiner can also be reached on alternate Mondays

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapura Achutamurthy, can be reached at (571) 272-0928. The fax phone number for this Group is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


REBECCA E. PROUTY
PRIMARY EXAMINER
GROUP 1652-1652